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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,843	02/10/2004	David Orbeck	7200-101/10211420	3024

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FULBRIGHT AND JAWORSKI L L P  
PATENT DOCKETING 29TH FLOOR  
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LOS ANGELES, CA 900172576

EXAMINER

JOHNSON, BLAIR M

ART UNIT PAPER NUMBER

3634

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/776,843

Applicant(s)

ORBECK ET AL.

Examiner

Blair M. Johnson

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 112***

Claims 3,12-14 and 19-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation that the sashes are secured to the side walls is not understood, claim 2. In claim 12, there is no antecedent basis for "the means for suspending". It is unclear if the header and sliding door are being claimed in combination with the assembly in claims 13 and 19.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,4,8 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Davis et al.

See the screens 12,14, having main frames which define the walls. The portion that retains the screen is considered the "frame" of claim 15, which inherently extends around the entire inner periphery of the main frame. Claim 3 is met as best understood by virtue of the sashes being attached to the sides of the opening through the track system.

Claims 1-5,12 and 15-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Boswell.

Boswell provides sashes of shutters having walls 58 with the "frames" being the front and rear surfaces of the sash structural members which extend beyond the walls 58 toward the center of the sash. The sashes are further suspended by rollers and brackets 14 as recited in claim 12.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al.

It would have been obvious to provide the screen retention channels of Davis et al around the entire periphery of the main frame, thereby defining the recited "frame".

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al in view of Schnoor.

The idea of suspending a screen is taught by Schnoor. It would have been obvious to modify Davis et al to have such a roller support system to reduce friction and ease movement.

Claims 13,14,19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boswell in view of Davis et al.

Hanging a track from a header is taught by Davis et al. While it is obvious that Boswell would also support his track in such a manner, Davis et al provides a teaching and motivation to make such a modification.

Claims 1-3 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bakalar in view of Howard.

Bakalar discloses Venetian blinds suspended by and moveable along parallel tracks. What he does not show are the walls and the mesh. However, Howard discloses Venetian blinds having screen mesh supported in frames/walls which are further slidable. In view of this teaching, it would have been obvious to modify Bakalar whereby his blinds are in frames so as prevent swaying of the blinds during movement and mesh screen to prevent ingress of pests.

Claims 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al in view of Schnoor as applied above, and further in view of Lilie et al.

Davis et al discloses what appears to be a spline and groove attachment of the screen to the frame in Fig. 3. Such a screen mounting is well known for it's lack of holding power. Lilie et al discloses a more secure screen attachment system in the form of elements 46 and 38. It would have been obvious to modify Davis et al to have such a screen attachment system for this reason. The frame taught by Lilie et al provides a wall 52 and "frames" 44,46, on one side of the sash and 38 on the other side of the sash. As these frames extend around the entire periphery of the sash, they meet the limitation of "three sided frame".

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bakalar in view of Howard as applied above, and further in view of Schaller et al.

The details of the frame of Howard are not shown. However, Schaller discloses a frame for a Venetian blind that provides channels which define walls (base of the channel) and frames (sides of the channel). It would have been obvious to provide the frame of Bakalar and Howard with such a structure so as to contain the blind.

Claims 1-3,6-11 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bakalar in view of Schaller et al.

Schaller discloses a frame for a Venetian blind that provides channels which define walls (base of the channel) and frames (sides of the channel). It would have been obvious to provide the frame of Bakalar with such a structure so as to contain the blind and to prevent swaying of the blind during movement.

Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bakalar in view of Howard and Schaller et al as applied above, and further in view of Boswell.

Providing a suspension system having a roller and bracket as well as a track with an upturned lip so as to positively guide the sashes with reduced friction is taught by Boswell at 12. It would have been obvious to modify Bakalar to have such a track and roller system for these reasons.

Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bakalar in view of Schaller et al as applied above, and further in view of Boswell.

Providing a suspension system having a roller and bracket as well as a track with an upturned lip so as to positively guide the sashes with reduced friction is taught by Boswell at 12. It would have been obvious to modify Bakalar to have such a track and roller system for these reasons.

***Allowable Subject Matter***

Claims 24-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Blair M. Johnson  
Primary Examiner  
Art Unit 3634

BMJ  
5/2/05